

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
COURT FILE NO.: _____**

Jane Conley,

Plaintiff,

v.

Expedia, Inc.,

Defendant.

COMPLAINT

JURY TRIAL DEMANDED

INTRODUCTION

1. Plaintiff's Complaint is based on Defendant Expedia, Inc.'s common law invasion of Plaintiff's privacy and intentional infliction of emotional distress.

JURISDICTION

2. This Court has diversity jurisdiction under 28 U.S.C. § 1332.
3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2) because the conduct in question occurred in this district, Plaintiff resides in this district, and Defendant transacts business in this district.

PARTIES

4. Plaintiff Jane Conley (hereinafter "Plaintiff") is a natural person who resides in the County of Anoka, State of Minnesota.
5. Defendant Expedia, Inc. (hereinafter "Defendant" or "Defendant Expedia") is a global travel company organized under the laws of the State of Washington.

Defendant has its principal place of business in Bellevue, Washington. Defendant regularly conducts business in the State of Minnesota by providing the technology to enable consumers to plan and book their travels on one of Defendant's global travel websites. Defendant's registered agent for service of process in the State of Minnesota is National Registered Agents, Inc., located at 100 South Fifth Street, Suite 1075, Minneapolis, Minnesota 55402.

FACTUAL ALLEGATIONS

6. On January 15, 2015, Plaintiff received an e-mail from Expedia informing her of a promotion where she could book a hotel, through Expedia, for half price.
7. Plaintiff immediately went to Expedia.com and entered the dates on which she planned to travel to Las Vegas, April 23, 2015 through April 26, 2015.
8. Plaintiff found a hotel that interested her and called Expedia for more information.
9. At 5:14 p.m. on January 15, 2015, Plaintiff called 1 (855) 296-5765, the telephone number listed on the hotel's Expedia.com information page, and spoke with a male Expedia agent.
10. During this phone call, Plaintiff spoke with the agent about what rooms were available for her dates.
11. At some point prior to completing the booking process, Plaintiff was disconnected from the Expedia agent.
12. Defendant's agent from telephone number (480) 270-8191, called Plaintiff back on her cellular number and got her voicemail.

13. Then again at 5:17 p.m., Plaintiff received a phone call, and a voicemail, from telephone number (480) 270-8191.
14. Plaintiff did not recognize the telephone number and, thus, did not answer the phone call.
15. The telephone number (480) 270-8191 belongs to Defendant Expedia.
16. Defendant Expedia, by and through an agent, called Plaintiff's telephone (651) 503-XXXX and left a voicemail message on January 15, 2015.
17. The message was left at 5:18 p.m. and was 31 seconds long.
18. This message in part stated: "[o]h, hi, so your name's Jane, and I just want to tell that you're the most f***ing idiot [sic], you f***ing moron. Do not call us back again, f***ing moron. [I'm] gonna f*** your . . . all your daughters, you b****. F*** you. You're the most f***ing Americans I've ever known. F*** you, b****. F*** you, Jane. F*** you, moron, idiot."
19. Plaintiff called Expedia again at 1 (800) 240-4080 and was eventually transferred to an agent named Mike, who identified himself as a supervisor.
20. Plaintiff explained the vile voicemail message to Mike, who responded: "[w]hat would you like me to do about it?"
21. Plaintiff next asked Mike if he thought the voicemail was acceptable, but Mike stated that he could not help Plaintiff.
22. This egregious, vile conduct by Defendant Expedia amounts to an invasion of Plaintiff's privacy.

23. This conduct by Defendant Expedia also amounts to an intentional infliction of emotional distress.
24. Defendant Expedia's voicemail caused Plaintiff fear, anxiety, sleeplessness, mental anguish, and severe emotional distress.
25. Defendant Expedia is aware and has been repeatedly notified about its abusive, vile and harassing call center employees based on prior complaints by previous victims of their outrageously harassing calls and voicemail messages.

TRIAL BY JURY

26. Plaintiff is entitled to and hereby demands a trial by jury. U.S. Const. Amend. 7; Fed. R. Civ. Pro. 38.

CAUSES OF ACTION

COUNT I.

INVASION OF PRIVACY – Intrusion Upon Seclusion

Defendant Expedia

43. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
44. Defendant Expedia intentionally intruded upon Plaintiff's solitude, seclusion, and private concerns and affairs when it left a profane voicemail on Plaintiff's telephone on January 15, 2015.
45. Defendant Expedia's intrusion was substantial, highly offensive to Plaintiff, and would be highly offensive and objectionable to the reasonable person in Plaintiff's position.

46. Plaintiff had a legitimate expectation of privacy in her solitude, seclusion, and private concerns and affairs.
47. As a result of Defendant's intrusion, Plaintiff has suffered fear, anxiety, sleeplessness, mental anguish, and severe emotional distress.

COUNT II.

INTENTIONAL INFLICTION OF EMOTION DISTRESS

Defendant Expedia

48. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
49. Defendant Expedia's conduct in leaving the profane voicemail message was both extreme and outrageous.
50. Defendant Expedia's conduct in leaving the profane voicemail message was also intentional, or reckless.
51. Defendant Expedia has caused Plaintiff severe emotional distress by means of the profane voicemail message left on Plaintiff's phone.
52. As a result of Defendant's conduct, Plaintiff has suffered fear, anxiety, sleeplessness, mental anguish, and severe emotional distress, and is entitled to an award of actual damages in an amount to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that relief be granted as follows:

- That the Court award actual damages in an amount greater than \$75,000 from Defendant Expedia for invasion of privacy and intentional infliction of emotional distress; and

- That the Court grant such other and further relief as may be just and proper.

Dated February 26, 2015

Respectfully submitted,

By: s/Thomas J. Lyons Jr.
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ATTORNEY FOR PLAINTIFF

VERIFICATION OF COMPLAINT AND CERTIFICATION BY PLAINTIFF

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

I, Jane Conley, having first been duly sworn and upon oath, deposes and says as follows:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification, or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this civil Complaint in good faith and solely for the purposes set forth in it.

s/Jane Conley
Jane Conley

Subscribed and sworn to before me
this 23rd day of February, 2015.

s/Andrea L. Weber
Notary Public